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May 9, 2005

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MAY - 9 2005

**By Hand Delivery**

Marlene Dortch, Esquire  
Secretary  
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Federal Communications Commission  
Office of Secretary

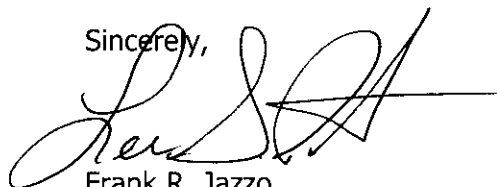
**RE: Joint Comments  
MB Docket No.: 05-124, RM-11174**

Dear Ms. Dortch:

Transmitted herewith is an original and four copies of the Joint Comments of Pulaski Broadcasting, Inc., and KEA Radio, Inc., in the above-referenced proceeding.

Should there be any questions regarding this matter, please contact undersigned counsel.

Sincerely,



Frank R. Jazzo  
Lee G. Petro

Counsel for KEA Radio, Inc.

Enclosures

cc: Robert S. Stone, Esquire  
Counsel for Pulaski Broadcasting, Inc.

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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

MAY - 9 2005

Federal Communications Commission  
Office of Secretary

In the Matter of:

Amendment of Section 73.202(b),  
Table of Allotments,  
FM Broadcast Stations

(Loretto, Tennessee,  
and Killen, Alabama)

MB Docket No.: 05-124  
RM-11174

TO: OFFICE OF THE SECRETARY  
ATTN: MEDIA BUREAU

JOINT COMMENTS OF  
PULASKI BROADCASTING, INC., AND KEA RADIO, INC.

Pulaski Broadcasting, Inc. ("Pulaski"),<sup>1</sup> and KEA Radio, Inc. ("KEA Radio"),<sup>2</sup> by and through their respective attorneys, hereby submit the following Joint Comments in support of the Petition for Rulemaking, filed by Pulaski on June 22, 2004, to reallocate Channel 252C3 from Killen, Alabama, to Loretto, Tennessee, and to change the community of license for Station WKSJ-FM (the "Station") to Loretto, Tennessee (the "Petition"). The Commission released a Notice of Proposed Rulemaking on March 18, 2005, requesting comments on the proposal.<sup>3</sup>

The NPRM also requested that Pulaski provide additional information relating to the Petition. Specifically, the NPRM requested that Pulaski provide an explanation as to why it filed

<sup>1</sup> Pulaski is the licensee of Station WKSJ-FM, Pulaski, Tennessee. Pulaski has pending an application for minor modification of Station WKSJ-FM to change the community of license of Station WKSJ-FM to Killen, Alabama (BPH-20040510AAK). See also *Ashland, Alabama, et. al.*, 19 FCC Rcd 6943 (MB 2004)(the "Report and Order").

<sup>2</sup> KEA Radio is the licensee of Station WKEA-FM, Scottsboro, Alabama. KEA Radio has received authority to upgrade Station WKEA-FM to a Class C3 facility (BPH-20040429ABC) See *Report and Order*, ¶ 20.

<sup>3</sup> See *Loretto, Tennessee, and Killen, Alabama*, Notice of Proposed Rulemaking, 20 FCC Rcd 6063 (MB 2005)(the "NPRM"). The NPRM established May 9, 2005, as the deadline for submitting comments. Therefore, these Comments are timely filed.

the Petition to request the change in the community of license from Killen, Alabama, to Loretto, Tennessee, in light of its earlier request to change the community of license of the Station from Pulaski, Tennessee, to Killen, Alabama.<sup>4</sup>

As discussed in more detail below, Pulaski filed the Petition at a time when Killen and the surrounding area appeared to be able to economically support the addition of the Station. However, in the passage of time between the filing of the Counterproposal and Pulaski's efforts to effectuate the changes specified in the Report and Order, market conditions in Killen have changed dramatically, and now warrant the change in community of license from Killen, Alabama, to Loretto, Tennessee.

Pulaski hereby restates its interest in the proposal contained in the Petition, and urges the prompt processing of the Petition. If the Petition is granted, Pulaski will take all necessary actions to effectuate the change in community of license of Station WKSR-FM to Loretto, Tennessee. KEA Radio has joined these Comments to express its support for the proposal contained in the Petition, and agrees to coordinate the necessary modifications of Station WKEA-FM to expedite the modifications to Station WKSR-FM.

## **DISCUSSION**

In the NPRM, the Media Bureau expressed its concern that the filing of the Petition is an attempt to gain approval for a "two-step" change in allotments.<sup>5</sup> According to the NPRM, the Media Bureau is concerned that Pulaski is attempting "to circumvent our allotment policies."<sup>6</sup>

Rather than an attempt to circumvent the Commission's rules and policies, the Petition was filed because the local radio markets in Killen and surrounding area, on the one hand, and

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<sup>4</sup> *Id.*, at ¶5.

<sup>5</sup> *NPRM*, at ¶ 5.

<sup>6</sup> *Id.*

Loretto on the other, have changed considerably between the time that Pulaski filed its counterproposal in the Ashland proceeding and when it filed its Petition to change the community of license of the Station from Killen, Alabama, to Loretto, Tennessee.

For example, the licensee of Station WJOR-FM, St. Joseph, Tennessee, filed for and received authorization to change the station's transmitter site to a location that permits it to provide city-grade coverage over Killen (as well as the entire Florence, Alabama Arbitron Metro market), while no longer providing such coverage to the community of Loretto (BPH-20040324AEH). As demonstrated in the Engineering Exhibit attached hereto as Exhibit A, WJOR-FM's presently licensed facilities serve the Loretto area with a city grade 70 dBu contour. That service will be eliminated with the implementation of the authorized construction permit facilities.

Additionally, Station WMXV(FM), Russellville, Alabama, recently was reallocated to Littleville, Alabama, which is approximately six miles closer to Killen, and will permit the station to provide complete city-grade coverage to Killen, as well as the entire Florence Arbitron Metro market with the filing of a simple minor modification application.<sup>7</sup>

The authorized migration of these two facilities to sites that would serve the entire Florence Arbitron Metro market has caused Pulaski to conclude that it is no longer economically viable to also move the Station into the same market. There are already nineteen (19) stations serving the Florence Arbitron Metro market, and the addition of the Station would further divide the market, which only has advertising revenues totaling 7.6 million dollars.<sup>8</sup>

Pulaski's determination is also supported by the closing of two major manufacturing plants owned by Ford Motor Company and Reynolds Aluminum in the market, and evaporation

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<sup>7</sup> *Russellville and Littleville, Alabama*, Report and Order, 19 FCC Rcd 6853 (MB 2004).

<sup>8</sup> *See BIA Media Access Report – Florence/Muscle Shoals, Alabama*, prepared May 3, 2005, attached hereto as Exhibit B.

of the textile industry in the Florence market over the past five years.<sup>9</sup> These factors have led Pulaski to determine that the addition of the Station into the Killen-Florence market would not make economic sense, and that the proposed reallocation of the Station to Loretto, Tennessee, would better serve the public interest by providing service to an area that is already relatively underserved and about to be even more underserved.

In addition, it is clear that the proposed reallocation of Station WKSJ-FM is not the second step in a "two-step" plan hatched to circumvent the Commission's rules. Originally, the Station was licensed to Pulaski, Tennessee, and the Report and Order granted the change in community of license approximately fifty (50) miles south to Killen, Alabama. On the other hand, the proposed reallocation to Loretto reflects a move twenty (20) miles back north into Tennessee, to an area that the Station partially serves as licensed to Pulaski, Tennessee. Pulaski has enjoyed no benefit from the intermediate rulemaking proceeding to allot the Station to Killen, Alabama, and, in fact, has expended considerable funds to prosecute a rulemaking proposal that no longer makes economic sense. Had Pulaski intended to circumvent any of the Commission's rules, it would never have proceeded as it did in this case.

Finally, Pulaski and KEA Radio seek to clarify an error in the NPRM. Specifically, the NPRM incorrectly states that Pulaski is the licensee of Station WKEA-FM, whereas KEA Radio is actually the licensee.<sup>10</sup> To the extent that coordination is required between Pulaski and KEA Radio for the construction of the modified WKSJ-FM facilities as proposed in the NPRM, and the upgrade of Station WKEA-FM to a Class C3 facilities, the parties have agreed to take all steps to permit the proposed actions.

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<sup>9</sup> *Shoals Cities Consider Whether to Consolidate*, The Crimson White, January 29, 2004 (quoting Steve Hold, the Shoals Chamber of Commerce).

<sup>10</sup> *NPRM*, at ¶ 7, nt. 8 ("We note that Pulaski, the petitioner in this proceeding, is also the licensee of Station WKEA-FM, Scottsboro, Alabama.").

## **CONCLUSION**

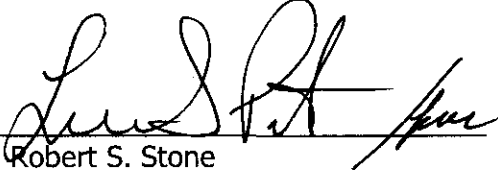
Thus, since initially pursuing its intended reallocation of the Station, market conditions have changed in both the Killen, Alabama and Loretto, Tennessee markets. The public interest would clearly be better served by the allotment of FM Channel 252C3 to Loretto, Tennessee. Moreover, it is clear that Pulaski did not intend to circumvent the Commission's rules and policies by filing two reallocation petitions in short succession.

Therefore, Pulaski Broadcasting, Inc., and KEA Radio, Inc., respectfully request that the Commission grant the Petition for Rulemaking to reallocate Channel 252C3 from Killen, Alabama, to Loretto, Tennessee, and to change the community of license for Station WKSJ-FM to specify Loretto, Tennessee, as its community of license. If the Commission grants the Petition for Rulemaking, Pulaski will take all necessary steps to effectuate the change in community of license for Station WKSJ-FM, to specify Loretto, Tennessee. Specifically, Pulaski shall promptly submit its application for construction permit and, upon grant thereof, shall promptly complete construction of a facility consistent with its proposal herein upon the effective date of the Commission's report and order reallocating FM Channel 252C3 from Killen to Loretto.

WHEREFORE, premises considered, Pulaski Broadcasting, Inc. respectfully urges the Commission to amend its Table of FM Allotments so as to reallocate FM Channel 252C3, Killen, Alabama, to the community of Loretto, Tennessee, as FM Channel 252C3.

Respectfully Submitted,

**PULASKI BROADCASTING, INC.**

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Its Counsel

**KEA RADIO, INC.**

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Its Counsel

May 9, 2005

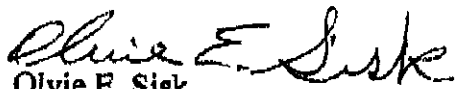
## EXHIBIT A



### ENGINEER'S STATEMENT

The attached map depicts the 70dbu contour of WJOR-FM as it is currently licensed and the 70dbu contour of the construction permit granted to WJOR-FM on May 17, 2004 by Federal Communications Commission.

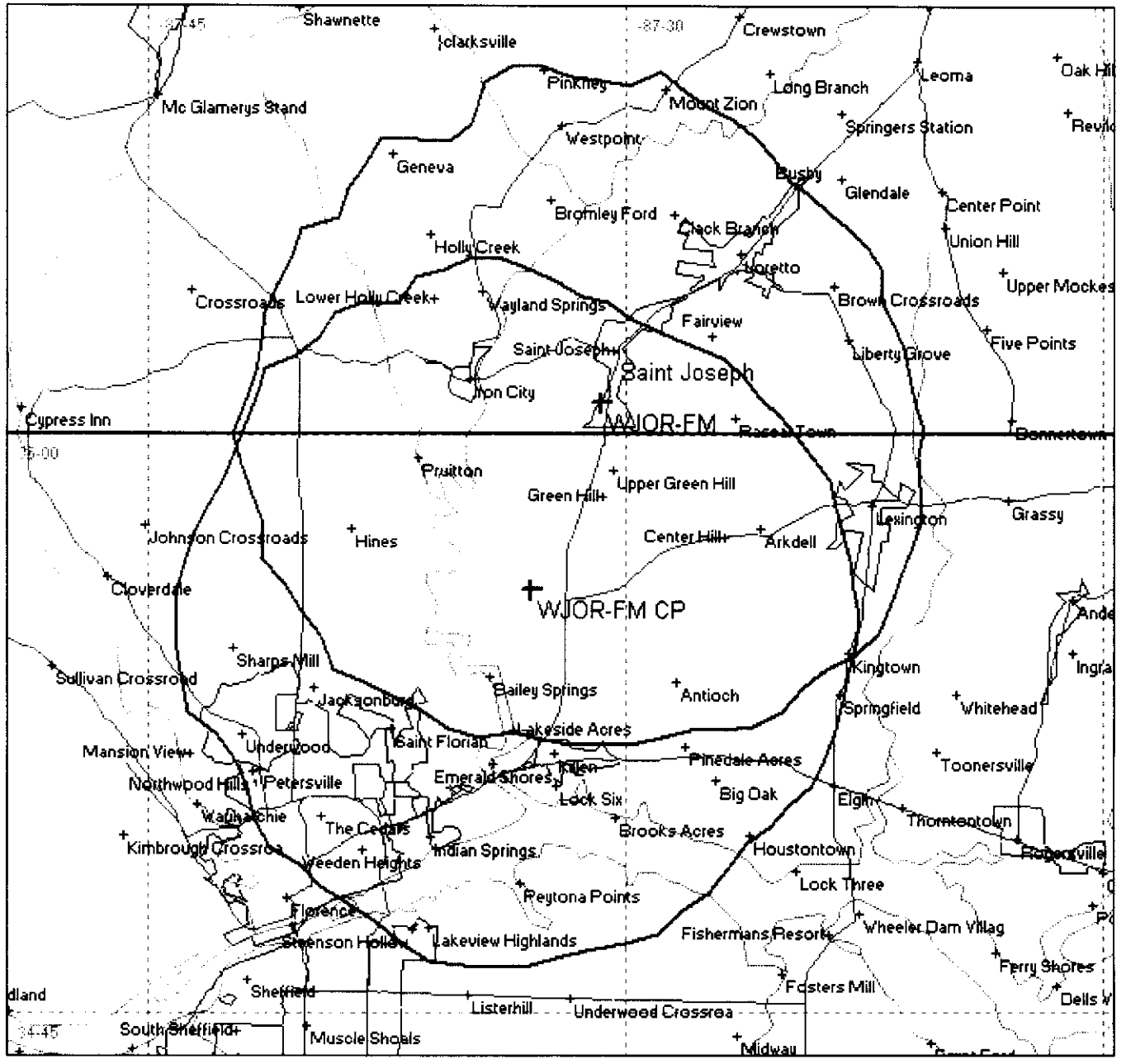
My work as a consulting engineer has been accepted by the Federal Communications Commission on numerous occasions and is a matter of record with the FCC.



Olvie E. Sisk

Engineer

May4, 2005

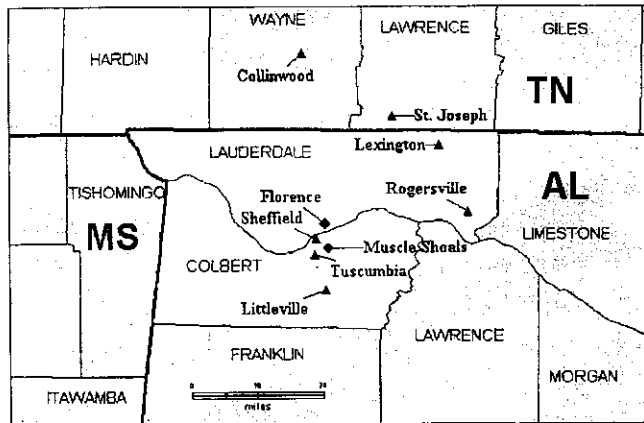


## **EXHIBIT B**

Metro Rank: 255

Revenue Rank: 222

## Florence-Muscle Shoals, AL Market Overview



### Metro Counties / Population (000)

Colbert, AL	54.7
Lauderdale, AL	86.6
	141.3

### Market Radio Financials

(all figures in 000's, except percentages and ratios)

ESTIMATED GROSS REVENUES ★ ★	1999	2000	2001	2002	2003	2004	Δ 99 - 04
	\$6,600	\$7,200	\$7,000	\$7,400	\$7,200	\$7,400	2.2%
	Δ 03 - 04	2005	2006	2007	2008	2009	Δ 04 - 09
	2.8%	\$7,600	\$8,000	\$8,300	\$8,700	\$9,100	4.4%
Revenue/Retail Sales	1999	2004	2009	Est. Breakout			
Revenue/Capita	NA <sup>1/</sup>	\$4.50/1,000	\$5.54/1,000	Local	80%		
	\$47.97	\$52.37	\$65.37	National	20%		

### Demographic and Economic Overview

(000's, except Retail Sales and EBI in 000,000's)

	1999	2004	Growth Rate	2004	2009	Growth Rate
MSA Population	137.6	141.3	0.5%	141.3	139.2	-0.3%
Households	54.7	58.4	1.3%	58.4	58.3	0.0%
Retail Sales	NA <sup>1/</sup>	1,646.0	NA <sup>1/</sup>	1,646.0	1,642.4	0.0%
EBI <sup>2/</sup>	2,102.4	2,264.7	1.5%	2,264.7	2,460.8	1.7%

### Demographic Breakdown

	Total	Under 12	12 - 17	18 - 24	25 - 34	35 - 44	45 - 54	Over 55
Men (000)	67.6	10.3	5.7	6.8	8.5	9.7	9.9	16.6
Women (000)	73.7	10.0	5.3	7.1	8.8	10.3	10.5	21.7
Total	141.3	20.3	11.0	13.9	17.3	20.0	20.4	38.3
Percentage	100.0%	14.4%	7.8%	9.8%	12.2%	14.2%	14.5%	27.1%
Per Capita	\$ 16,032		Median Household \$ 30,455		Avg Household \$ 38,761			
Ethnic Population:	White	85.7%	Black	12.5%	Asian	0.4%	Hispanic	1.1%

### Market Summary

FM Classes	Class A	Class B	Class C	Viab FMs	All FMs	All AMs	Total
# Stations	4		5	8	9	7	16
Tot 12+	13.2		45.8	57.1	59.0	6.9	65.9
Avg 12+	3.3		9.2	7.1	6.6	1.0	4.1
Tot LCS	20.0		69.5	86.6	89.5	10.5	100.0
Avg LCS	5.0		13.9	10.8	9.9	1.5	6.3

1/ Estimate not available. See page 6. 2/ EBI estimates are for previous year than noted in column header.



## FCC Geographic Market Definition for Florence-Muscle Shoals,

Call Letters	AM/FM	Freq	Type Station	Format	Home Market	Market Designtn Date	Home Mkt Rank	Owner	City & State of License	County of License
WBCF	AM	1240	C	Nws/Tlk/Spt	Florence-Muscle Shoals, AL	07/02/2003	255	BCB, Inc	Florence, AL	Lauderdale
WBTG	FM	106.3	C	Sothn Gspel	Florence-Muscle Shoals, AL	07/02/2003	255	Slatton & Associates	Sheffield, AL	Colbert
WLAY	AM	1450	C	Country	Florence-Muscle Shoals, AL	07/02/2003	255	URBan Radio Broadcasting LLC	Muscle Shoals, AL	Colbert
WLAY	FM	100.3	C	Country	Florence-Muscle Shoals, AL	07/02/2003	255	Clear Channel Communications	Tuscumbia, AL	Colbert
WQLT	FM	107.3	C	AC	Florence-Muscle Shoals, AL	07/02/2003	255	Big River Broadcasting Corp	Florence, AL	Lauderdale
WSBM	AM	1340	C	Urban AC	Florence-Muscle Shoals, AL	07/02/2003	255	Big River Broadcasting Corp	Florence, AL	Lauderdale
WBTG	AM	1290	C	Chrst/Talk	Florence-Muscle Shoals, AL	07/02/2003	255	Slatton & Associates	Sheffield, AL	Colbert
WVNA	AM	1590	C	Nws/Tlk/Spt	Florence-Muscle Shoals, AL	07/02/2003	255	URBan Radio Broadcasting LLC	Tuscumbia, AL	Colbert
WVNA	FM	105.5	C	Clsc Rock	Florence-Muscle Shoals, AL	07/02/2003	255	URBan Radio Broadcasting LLC	Muscle Shoals, AL	Colbert
WJHX	AM	620	C	Mexican	Florence-Muscle Shoals, AL	07/02/2003	255	p BAR Broadcasting Inc	Lexington, AL	Lauderdale
WZZA	AM	1410	C	Urban/Gospl	Florence-Muscle Shoals, AL	07/02/2003	255	Muscle Shoals Broadcasting	Tuscumbia, AL	Colbert
WMXV	FM	103.5	C	Oldies	Florence-Muscle Shoals, AL	07/02/2003	255	URBan Radio Broadcasting LLC	Littleville, AL	Colbert
WMSR	FM	94.9	C	Soft Hits	Florence-Muscle Shoals, AL	07/02/2003	255	Malkan Broadcast Association	Collinwood, TN	Wayne
WXFL	FM	96.1	C	Country	Florence-Muscle Shoals, AL	07/02/2003	255	Big River Broadcasting Corp	Florence, AL	Lauderdale
WYTK	FM	93.9	C	AC	Florence-Muscle Shoals, AL	07/02/2003	255	Valley Broadcasting Inc	Rogersville, AL	Lauderdale
WJOR	FM	101.5	C	Cntry/Gospl	Florence-Muscle Shoals, AL	02/09/2005	255	URBan Radio Broadcasting LLC	St. Joseph, TN	Lawrence
WAKD	FM	89.9	NC	Christian	Florence-Muscle Shoals, AL	07/02/2003	255	American Family Association Incorporated	Sheffield, AL	Colbert
WFIX	FM	91.3	NC	ChrsContem	Florence-Muscle Shoals, AL	07/02/2003	255	Tri State Inspirational Broadcasting	Florence, AL	Lauderdale
WQPR	FM	88.7	NC	Nws/Cls/Jaz	Florence-Muscle Shoals, AL	07/02/2003	255	University of Alabama	Muscle Shoals, AL	Colbert

Number of Stations in Geographic Market    19

### Previous Stations in Geographic Market

WLVS	FM	106.5	C	Country		02/09/2005	0	Big River Broadcasting Corp	Clifton, TN	Wayne
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"C" - Commercial Station; "NC" - Non Commercial Station

"p" indicates pending sale to owner listed